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UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

150-1-10D

In re:)	AWA Docket No. 04-B032
)	
JOSEPH M. ESTES, an individual)	
doing business as ROCK CREEK EXOTIC)	
DRIVE-THRU; and SAFARI JOE'S WILDLIFE)	
RANCH, INC., an Oklahoma corporation,)	
)	
Respondents.)	
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In re:)	AWA Docket No. 05-0027
)	
JOSEPH M. ESTES, an individual; and)	
SAFARI JOE'S WILDLIFE RANCH, INC.,)	
an Oklahoma corporation doing business as)	
SAFARI JOE'S ZOOLOGICAL PARK,)	
)	
Respondents.)	Consent Decision and Order

These proceedings were instituted under the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.)(the "Act"), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the respondents willfully violated the Act and the regulations and standards issued thereunder (9 C.F.R. § 1.1 et seq.). This decision is entered into pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

Respondents admit the allegations in the respective complaints, as set forth herein as findings of fact and conclusions of law, waive oral hearing and further procedure, and consent and agree to the entry of this decision for the purpose of settling this proceeding. The complainant agrees to the entry of this decision.

Findings of Fact

1. Respondent Joseph M. Estes is an individual whose address is 13455 Highway 69

North, Adair, Oklahoma 74330. Said respondent is an officer of respondent Safari Joe's Wildlife Ranch, Inc. At all times mentioned herein, said respondent was operating as a dealer and exhibitor, as those terms are defined in the Regulations, and has done business as Rock Creek Exotic Drive-Thru. Respondent Joseph M. Estes previously held Animal Welfare Act license number 73-C-0133, which license was cancelled on September 4, 2000, and revoked on December 1, 2003, by order of the Secretary of Agriculture.

2. Respondent Safari Joe's Wildlife Ranch, Inc., is an Oklahoma corporation doing business as Safari Joe's Zoological Park, and whose agent for service of process is respondent Joseph M. Estes, 13455 Highway 69 North, Adair, Oklahoma 74330. At all times mentioned herein, said respondent was operating as a dealer and exhibitor, as those terms are defined in the Regulations.

3. Respondents operate a roadside zoo in Adair, Oklahoma and also exhibit animals (specifically, guinea pigs, rabbits, hamsters, piglets, baby goats, and a non-human primate) at locations throughout Oklahoma and Kansas, for compensation or profit. Respondents also solicit and accept donations from the public. As of December 2004, the animals exhibited at the roadside zoo included spider monkeys, lemurs, macaques, red deer, Barbados sheep, coatimundi, camels, goats, emus, chinchilla, ostriches, zebras, sheep, miniature donkeys, prairie dogs, rabbits, black bears, servals, poultry, parrots, lions, llamas, leopards, tigers, wolves, raccoons, buffalo, watusi, and pot-bellied pigs. The gravity of the violations alleged in this complaint is great, and involve willful, deliberate violations of the licensing regulations. The violations themselves demonstrate a lack of good faith on the part of respondents.

4. Respondent Joseph M. Estes has a history of violations. *In re Joe Estes, an individual doing business as Safari Joe's Wildlife Rescue, aka Safari Joe's Exotic Wildlife Rescue, aka Safari*

Joe's Zoological Park, an unincorporated association or sole proprietorship, AWA Docket No. 02-0026 (Consent Decision and Order, June 11, 2003)(where respondent Joe Estes admitted all of the violations of the Animal Welfare Act alleged in the complaint, Chief Administrative Law Judge James W. Hunt found that Estes committed no fewer than 39 violations of the animal welfare regulations (9 C.F.R. §§ 2.1(a)(1)(exhibiting without a license), 2.8 (failing to notify Animal Care of the operation of additional sites while Estes was licensed), 2.40 (failing to establish and maintain adequate programs of veterinary care), 2.75 (failing to keep and maintain accurate records), 2.100(a)(failing to comply with standards), and 2.131(failing to handle lions, tigers and cougars carefully and safely), and failed to meet the minimum standards for the care, feeding and housing of rabbits, lions, tigers, cougars and wolves; Mr. Estes was ordered to cease and desist from violating the Act and the Regulations, and was assessed a \$10,000 civil penalty, which he failed to pay, and, as a result, his previous AWA license (No. 73-C-0133) was revoked on December 1, 2003, pursuant to the consent decision and order).

5. Respondent Joseph M. Estes has knowingly failed to obey the cease and desist order made by the Secretary pursuant to section 2149(b) of the Act, in *In re Joe Estes, an individual doing business as Safari Joe's Wildlife Rescue, aka Safari Joe's Exotic Wildlife Rescue, aka Safari Joe's Zoological Park, an unincorporated association or sole proprietorship*, AWA Docket No. 02-0026 (Consent Decision and Order, June 11, 2003). 7 U.S.C. § 2149(b). Said cease and desist order specifically provided that "Respondent, his agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating the Act and the Regulations and Standards." Pursuant to section 2149(b) of the Act, any person who knowingly fails to obey such a cease and desist order shall be subject to a civil penalty of \$1,650 for each

offense, and each day during which such failure continues shall be deemed a separate offense. 7
U.S.C. § 2149(b), 7 C.F.R. § 3.91(b)(2)(v).

6. From on or about March 18, 2002, through April 2, 2003 (and specifically on March 18 and May 29, 2002), respondents Joseph M. Estes and Safari Joe's Wildlife Ranch, Inc., operated as dealers and exhibitors, as those terms are defined in the Regulations, without having obtained a license from the Secretary to do so.

7. On July 19, 2004, respondents operated as exhibitors, as that term is defined in the Regulations, without having obtained a license from the Secretary to do so, and specifically, displayed an Angora rabbit, for compensation or profit, at Kid's Castle Preschool, in Sand Springs, Oklahoma.

8. In approximately July 2003, respondents operated as exhibitors, as that term is defined in the Regulations, without having obtained a license from the Secretary to do so, and specifically, displayed a non-human primate, for compensation or profit, at Kid's Castle Preschool, in Sand Springs, Oklahoma.

9. Repeatedly between December 1, 2003, and December 2, 2004, respondents operated as exhibitors, as that term is defined in the Regulations, without having obtained a license from the Secretary to do so, and specifically, operated a roadside zoo at Adair, Oklahoma, held fund-raising and other events at that location at which they displayed animals to the public, and made their animals available for viewing at off-site events.

10. In January 2005, respondents operated as dealers, as that term is defined in the Regulations, by negotiating the purchase or sale of animals (tigers) for exhibition, and specifically, respondents have entered into a joint venture to breed tigers for exhibition or for use as pets, without

having a valid license to do so.

11. On or April 10, 2003, respondents failed to have an attending veterinarian provide adequate veterinary care to animals as required, and specifically, failed to have an attending veterinarian provide care to two lions suffering from ringworm.

12. On April 10, 2003, in Adair, Oklahoma, respondents failed to make, keep, and maintain records of animals held or otherwise in their possession or under their control.

13. On or about March 1 through April 10, 2003, respondents failed to meet the minimum requirements for facilities in section 3.125(a) of the Standards (9 C.F.R. § 3.125(a)), by failing to ensure that their housing facilities for tigers were structurally sound and maintained in good repair to protect the animals from injury, and to contain them, and specifically, respondents housed adult tigers in an exercise pen made of cattle panels (wire with large mesh openings designed to contain livestock), in Adair, Oklahoma.

14. On or about April 10, 2003, respondents failed to meet the minimum requirements for outdoor facilities in section 3.127(d) of the Standards (9 C.F.R. § 3.127(d)), by failing to enclose their outdoor housing facilities in Adair, Oklahoma, by a perimeter fence.

Conclusions

1. The respondents have admitted the allegations in the complaints, as set forth herein as findings of fact and conclusions of law, the parties have agreed to the entry of this decision, and therefore such decision will be entered.

2. From on or about March 18, 2002, through April 2, 2003 (and specifically on March 18 and May 29, 2002), respondents Joseph M. Estes and Safari Joe's Wildlife Ranch, Inc., operated as dealers and exhibitors, as those terms are defined in the Regulations, without having obtained a

license from the Secretary to do so, in willful violation of section 2.1(a)(1) of the Regulations (9 C.F.R. § 2.1(a)(1)).

3. On July 19, 2004, respondents operated as exhibitors, as that term is defined in the Regulations, without having obtained a license from the Secretary to do so, and specifically, displayed an Angora rabbit, for compensation or profit, at Kid's Castle Preschool, in Sand Springs, Oklahoma, in willful violation of section 2.1(a)(1) of the Regulations (9 C.F.R. § 2.1(a)(1)).

4. In approximately July 2003, respondents operated as exhibitors, as that term is defined in the Regulations, without having obtained a license from the Secretary to do so, and specifically, displayed a non-human primate, for compensation or profit, at Kid's Castle Preschool, in Sand Springs, Oklahoma, in willful violation of section 2.1(a)(1) of the Regulations (9 C.F.R. § 2.1(a)(1)).

5. Repeatedly between December 1, 2003, and December 2, 2004, respondents operated as exhibitors, as that term is defined in the Regulations, without having obtained a license from the Secretary to do so, and specifically, operated a roadside zoo at Adair, Oklahoma, held fund-raising and other events at that location at which they displayed animals to the public, and made their animals available for viewing at off-site events, in willful violation of sections 2.1(a)(1) of the Regulations. 9 C.F.R. § 2.1(a)(1).

6. In January 2005, respondents operated as dealers, as that term is defined in the Regulations, by negotiating the purchase or sale of animals (tigers) for exhibition, and specifically, respondents have entered into a joint venture to breed tigers for exhibition or for use as pets, without having a valid license to do so, in willful violation of section 2134 of the Act, 7 U.S.C. § 2134, and section 2.1(a) of the Regulations. 9 C.F.R. § 2.1(a)

7. On or April 10, 2003, respondents failed to have an attending veterinarian provide adequate veterinary care to animals as required, and specifically, failed to have an attending veterinarian provide care to two lions suffering from ringworm, in willful violation of the veterinary care Regulations (9 C.F.R. § 2.40(a)).

8. On April 10, 2003, in Adair, Oklahoma, respondents failed to make, keep, and maintain records of animals held or otherwise in their possession or under their control, in willful violation of section 2.75(b)(1) of the Regulations. 9 C.F.R. § 2.75(b)(1).

9. On or about March 1 through April 10, 2003, respondents failed to meet the minimum requirements for facilities in section 3.125(a) of the Standards (9 C.F.R. § 3.125(a)), by failing to ensure that their housing facilities for tigers were structurally sound and maintained in good repair to protect the animals from injury, and to contain them, and specifically, respondents housed adult tigers in an exercise pen made of cattle panels (wire with large mesh openings designed to contain livestock), in Adair, Oklahoma, in willful violation of section 2.100(a) of the Regulations (9 C.F.R. § 2.100(a)).

10. On or about April 10, 2003, respondents failed to meet the minimum requirements for outdoor facilities in section 3.127(d) of the Standards (9 C.F.R. § 3.127(d)), by failing to enclose their outdoor housing facilities in Adair, Oklahoma, by a perimeter fence, in willful violation of section 2.100(a) of the Regulations (9 C.F.R. § 2.100(a)).

Order

1. Respondents, their agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating the Act and the Regulations and Standards.

2. For the purposes of this consent decision and order, the five-year period of time between August 1, 2006, and July 31, 2011, shall be referred to as the "probation period." Respondents Joseph M. Estes and Safari Joe's Wildlife Ranch, Inc., agree that during the probation period, they will not engage in any activity for which such a license under the Act is required, directly or through any agent, employee, or other device. Respondents Joseph M. Estes and Safari Joe's Wildlife Ranch, Inc., further agree that if during the probation period APHIS notifies either of them that it has documented a failure to comply with section 2.1 of the Regulations (9 C.F.R. § 2.1), upon receipt of such notice and supporting documentation, said respondents shall be jointly and severally assessed a civil penalty of \$30,000 for such failure, without further procedure, and due and payable within 60 days of respondents' receipt of such notice. Respondents Joseph M. Estes and Safari Joe's Wildlife Ranch, Inc., further agree to a prospective waiver of their right to notice and opportunity for an oral hearing pursuant to section 19 of the Act (7 U.S.C. § 2149) as to any such failure to comply with said Regulation described in this paragraph, and the parties agree that Respondents Joseph M. Estes and Safari Joe's Wildlife Ranch, Inc., may seek further review or injunctive, declaratory or other appropriate relief in the district court in the district where either respondent resides or has his principal place of business, pursuant to section 2146(c) of the Act (7 U.S.C. § 2146(c)), within 60 days of receipt of such notice.

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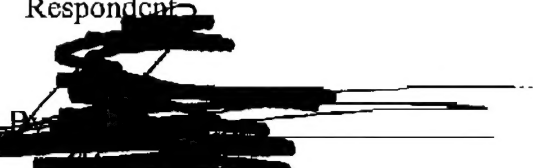

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This order shall become effective on the first day after service of this decision on the respondent. Copies of this decision shall be served upon the parties.

SAFARI JOE'S WILDLIFE RANCH, INC.

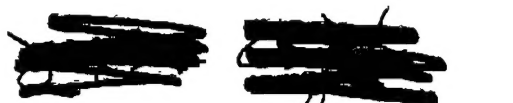
An Oklahoma corporation
Respondent


By 
Its _____


Joseph M. Estes
Respondent


Colleen A. Carroll
Attorney for Complainant

Done at Washington, D.C.
this 14 day of August, 2006


Jill S. Clifton
Administrative Law Judge